

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

UNITED STATES
BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

2021 NOV 16 A 10:31

In re:

MARK DAVID THEIS and,
ANGELA MARIE THEIS,

CASE NO.: 21-30450 **FILED**
CHAPTER 7

Debtors.

MOTION FOR SANCTIONS AGAINST JOHN R. SLAMA
FOR VIOLATION OF THE AUTOMATIC STAY

The debtors, pursuant to 11 U.S.C. §105(a) and Rule 9014 of the Federal Rules of Bankruptcy Procedure, hereby move the Court for entry of an order imposing sanctions against their landlord, John R. Slama ("Slama"), for willfully violating the automatic stay in this matter, and in support thereof states the following:

1. Debtor Mark Theis lost his job after undergoing a required surgery and the debtors were unable to pay their residential rent for two months. Although their landlord, Slama, knew that the debtors had applied for federal rent assistance, he served them with a notice of intent to evict, which necessitated the filing of an emergency bankruptcy petition.

2. The debtors filed this bankruptcy case on October 28, 2021 and an automatic stay immediately went into effect. 11 U.S.C. Section 362(b) [If a landlord has not obtained a judgment for possession against the debtor prior to the bankruptcy filing, the automatic stay goes into effect as usual and stays the eviction.]

3. Immediately upon filing, while still at the bankruptcy court, the debtors emailed Slama notice of their bankruptcy filing at the email address and cell phone number that Slama typically uses to communicate with the debtors.

4. The following day, after being notified of the bankruptcy filing, Slama filed an eviction proceeding against the debtors in the Cass County District Court and caused them to be served by the Cass County Sheriff with a court summons and complaint to evict the debtors from their residence. An eviction hearing was, and still is, scheduled for November 18, 2021, at 3:00 P.M.

5. Despite additional calls and text messages again notifying Slama of the bankruptcy filing and that he was in violation of the automatic stay, Slama has ignored all communications and has failed to dismiss the eviction or request a stay or cancellation of the eviction hearing.

6. On November 3, 2021, the debtors filed a Notice of Bankruptcy Filing in the Cass County District Court notifying the County Court about the bankruptcy filing and automatic stay. (See attached). On the same date, the debtors mailed a copy of that notice to Slama as well.

7. Debtor Angela Theis has called and spoken with the Cass County District Court Clerk's office on several occasions trying to get the eviction hearing cancelled. She has also called and spoken with clerks in the assigned County Court judge's chambers — all to no avail. She was told that the eviction and hearing will not be cancelled unless Slama requests that it be cancelled or dismisses the action. The County Court has failed and refused to cancel the eviction hearing or to stay the proceeding and takes the position that it has no obligation to comply with the automatic stay unless Slama requests that it do so.

8. Debtors have suffered great emotional distress as a result of Slama's and the County Court's willful failure to comply with the automatic stay. Additionally, the debtors now have a public eviction filing which will significantly hinder their ability to rent another residence.

9. Actions taken in violation of the automatic stay are void. *LaBarge v. Vierkant* (*In re Vierkant*), 240 B.R. 317, 325 (B.A.P. 8th Cir. 1999). However, the County Court refuses to stay the eviction proceeding. Additionally, Slama has taken no action to dismiss the unlawful eviction proceeding or to cancel the hearing.

WHEREFORE, the debtors respectfully request that the Court enter an order (1) finding Slama in violation of the automatic stay and in contempt of court, (2) awarding appropriate sanctions to the debtors, including compensatory and punitive damages; (3) declaring that any actions taken by the Cass County Court in the eviction proceeding are void; (4) requiring Slama to immediately dismiss the illegal eviction proceeding in the Cass County District Court; and (5) granting such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

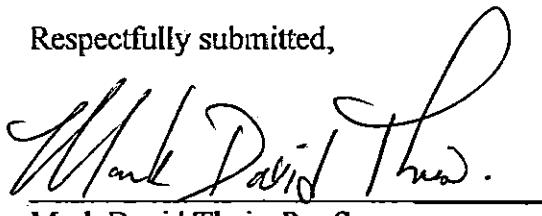
I HEREBY CERTIFY that I mailed true and correct copy of the foregoing document by first-class U.S. mail on November 16, 2021 to the parties listed below:

John R. Slama
5415 11th Street S.
Fargo, ND 58104

Kip M. Kaler
Bankruptcy Trustee
3429 Interstate Blvd.
P.O. Box 9231
Fargo, ND 58106

Dated: November 16, 2021

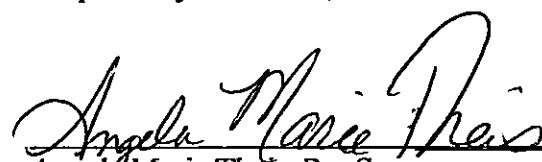
Respectfully submitted,



Mark David Theis, Pro Se
1405 25th Avenue S., Unit 305
Fargo, ND 58103
Tel: (701) 866-5081
Email: angie.theis1201@gmail.com

Dated: November 16, 2021

Respectfully submitted,



Angela Marie Theis, Pro Se
1405 25th Avenue S., Unit 305
Fargo, ND 58103
Tel: (701) 547-8286
Email: angie.theis1201@gmail.com

STATE OF NORTH DAKOTA
COUNTY OF CASS

IN THE DISTRICT COURT
EAST CENTRAL DISTRICT

JOHN R. SLAMA,
Plaintiff,
vs.
MARK AND ANGIE THEIS,
Defendants.

Case No.: 09-2021-CV-3388

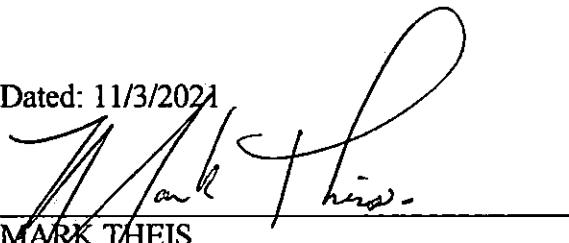
NOTICE OF BANKRUPTCY FILING

PLEASE TAKE NOTICE that defendants Mark Theis and Angie Theis filed a joint bankruptcy petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of North Dakota on October 28, 2021. (See attached). An automatic stay is currently in effect which stays this action.

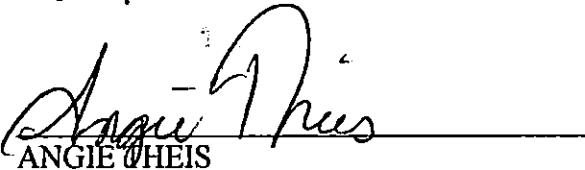
CERTIFICATE OF SERVICE

I hereby certify that I have this date mailed a true and correct copy of this document to John R. Slama, 5414 11th Street South, Fargo, ND 58104.

Dated: 11/3/2021



MARK THEIS



ANGIE THEIS

United States Bankruptcy Court
District of North Dakota

Notice of Bankruptcy Case Filing



A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 7 of the United States Bankruptcy Code, entered on 10/28/2021 at 2:07 PM and filed on 10/28/2021.

Mark David Theis
1405 25th Ave S
Unit 305
Fargo, ND 58103
SSN / ITIN: xxx-xx-9056

Angela Marie Theis
1405 25th Ave S
Unit 305
Fargo, ND 58103
SSN / ITIN: xxx-xx-0881
aka Angela Marie Lokken
aka Angela Marie Wink

The case was assigned case number 21-30450.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page www.ndb.uscourts.gov or at the Clerk's Office, 655 1ST AVENUE NORTH, SUITE 210, FARGO, ND 58102.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

*Balance of Schedules & Statements
Due on or before 11/12/21*

Kay A. Melquist
Clerk, U.S. Bankruptcy
Court